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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,851	10/25/2001	Wolf-Dieter R. Berndt	01/0925	5032

7590

10/04/2004

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EXAMINER

EINSMANN, MARGARET V

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/053,851	BERNDT ET AL.	
	Examiner	Art Unit	
	Margaret Einsmann	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment filed 8/9/04. Newly presented Claim 4 is the sole pending claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berndt et al., US 6,086,635.

Applicant's basic process as claimed in a conventional process that dry cleaning establishments have been employing for many years. The use of organosilicone solvents in the process of dry cleaning garments which have been brought to consumer dry cleaning establishments is known from Berendt, '635 as well as Berendt's other patents noted in the first paragraph of the specification. In the '635 patent Berendt discloses a method of dry cleaning with silicone solvents using a dry cleaning machine adapted for use with organosilicone solvents. Berendt explains in detail the difference between the organosilicone solvents and the prior art PERC and hydrocarbon solvents, and gives explicit details concerning the requirements for a dry cleaning machine for use with silicone solvents. See column 3 lines 5-12 for the prior art gravity separators,

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and the next two paragraphs where he explains the changes he has made in the new dry cleaning system to accommodate the specific gravity of organosilicone solvents. Column 4 lines 16 et seq. teaches the filtration systems compatible with organosilicone solvents.

Berndt differs from the claimed subject matter since he does not use a converted dry cleaning machine in his dry cleaning method. The subject matter would have been obvious to the skilled artisan reading the Berndt patent because that patent discloses in detail the requirements, including separation and filtration systems for use with organosilicone solvents, and he describes how his new dry cleaning apparatus differs from the conventional dry cleaning apparatus. He not only describes the differences between the PERC solvents and the organosilicone solvents in terms of their density, but he also describes the problem of the organosilicone fluids forming globules, which means that a different separation and filtration system is necessary. Accordingly Berndt describes the problems of changing from a PERC dry cleaning system to an organosilicone dry cleaning system in such detail that an engineer familiar with dry cleaning equipment, reading this patent would have the knowledge to convert a PERC dry cleaning apparatus to a system that could be used successfully with organosilicone solvents.

Response to Amendment

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Applicant's amendment has mooted the rejections of record since all of the claims which were pending have been canceled. However, claim 4 is claim 1 rewritten. Accordingly, the rejection over Berendt has been applied to claim 4.

Applicant's arguments filed 8/9/04 regarding the above rejection as applied to claim 1 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference. Applicant does not argue that each and every step of the of the claimed process is a step that is conventionally practiced every day when a consumer brings garments to a dry cleaning establishment, except for the use of the converted machine. Applicant argues that Berendt does not teach the business model algorithm as claimed. The term algorithm is used in this claim in an unconventional manner. The Merriam-Webster Dictionary defines algorithm as: "A procedure for solving a mathematical problem (as of finding the greatest common divisor) in a finite number of steps that frequently involves repetition of an operation; *broadly* : a step-by-step procedure for solving a problem or accomplishing some end especially by a computer." Applicant is not solving a mathematical problem. Applicant is not using a computer. Applicant refers to the State Street Bank case. That case is not analogous to the present situation. The examiner is not rejecting a computer or a computer program. The current method claims conventionally known steps dry cleaning steps but using a converted machine. The Berendt reference teaches the advantages of using organosilicone solvents, teaches

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that the organosilicone solvents cannot be used in conventional dry cleaning machinery, the detailed differences between the perc dry cleaning machines and the organosilicone machines, that is a teaching of how to convert the perc machine for use with organosilicone solvents. Applicant states that the applicant is not a dry cleaning machine engineer but he is a talented medical doctor. The Berendt patent teaches what is necessary to convert the machine. Is applicant stating that he did not convert the machine? That is not relevant to the claim since it only claims the use of the machine. He could have hired a mechanic or engineer to convert the machine. He could have bought the converted machine. Patentee only claims using the converted machine. The Berendt reference teaches the differences in the machines, the advantages of dry cleaning with organosilicone solvents making it obvious to buy, make, convert or otherwise obtain a machine which would use the organosilicone solvents in a conventional dry cleaning operation. It would be further obvious to use a converted machine for the additional cost saving over purchasing a new machine.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.


Margaret Einsmann
Primary Examiner
Art Unit 1751

September 27, 2004